

UNITED STATES DISTRICT COURT

for the

District of Oregon 

Portland Division

FILED Jan 22 2022 163AM 00P

Benjamin Jay Barber

) Case No. 3:22-cv-135-MO
) (to be filled in by the Clerk's Office)

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

EVGA Corporation

Jury Trial: (check one) Yes No*Defendant(s)*

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

COMPLAINT FOR A CIVIL CASE

I. The Parties to This Complaint

A. The Plaintiff(s)

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name	Benjamin Barber
Street Address	10043 SE 32nd Ave
City and County	Milwaukie
State and Zip Code	Oregon
Telephone Number	9712700855
E-mail Address	starworks5@gmail.com

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title (*if known*). Attach additional pages if needed.

Pro Se 1 (Rev. 12/16) Complaint for a Civil Case

Defendant No. 1

Name	<u>EVGA corporation</u>
Job or Title (<i>if known</i>)	
Street Address	<u>408 Saturn St,</u>
City and County	<u>Brea,</u>
State and Zip Code	<u>CA 92821</u>
Telephone Number	<u>1.888.881.EVGA</u>
E-mail Address (<i>if known</i>)	<u>legal@evga.com</u>

Defendant No. 2

Name	
Job or Title (<i>if known</i>)	
Street Address	
City and County	
State and Zip Code	
Telephone Number	
E-mail Address (<i>if known</i>)	

Defendant No. 3

Name	
Job or Title (<i>if known</i>)	
Street Address	
City and County	
State and Zip Code	
Telephone Number	
E-mail Address (<i>if known</i>)	

Defendant No. 4

Name	
Job or Title (<i>if known</i>)	
Street Address	
City and County	
State and Zip Code	
Telephone Number	
E-mail Address (<i>if known</i>)	

II. Basis for Jurisdiction

Federal courts are courts of limited jurisdiction (limited power). Generally, only two types of cases can be heard in federal court: cases involving a federal question and cases involving diversity of citizenship of the parties. Under 28 U.S.C. § 1331, a case arising under the United States Constitution or federal laws or treaties is a federal question case. Under 28 U.S.C. § 1332, a case in which a citizen of one State sues a citizen of another State or nation and the amount at stake is more than \$75,000 is a diversity of citizenship case. In a diversity of citizenship case, no defendant may be a citizen of the same State as any plaintiff.

What is the basis for federal court jurisdiction? *(check all that apply)*

- Federal question Diversity of citizenship

Fill out the paragraphs in this section that apply to this case.

A. If the Basis for Jurisdiction Is a Federal Question

List the specific federal statutes, federal treaties, and/or provisions of the United States Constitution that are at issue in this case.

B. If the Basis for Jurisdiction Is Diversity of Citizenship

1. The Plaintiff(s)

a. If the plaintiff is an individual

The plaintiff, *(name)* _____, is a citizen of the
State of *(name)* _____.

b. If the plaintiff is a corporation

The plaintiff, *(name)* EVGA, is incorporated
under the laws of the State of *(name)* California,
and has its principal place of business in the State of *(name)*
California.

(If more than one plaintiff is named in the complaint, attach an additional page providing the same information for each additional plaintiff.)

2. The Defendant(s)

a. If the defendant is an individual

The defendant, *(name)* Benjamin Barber, is a citizen of
the State of *(name)* Oregon. Or is a citizen of
(foreign nation) _____.

b. If the defendant is a corporation

The defendant, *(name)* _____, is incorporated under
 the laws of the State of *(name)* _____, and has its
 principal place of business in the State of *(name)* _____.
 Or is incorporated under the laws of *(foreign nation)* _____,
 and has its principal place of business in *(name)* _____.

(If more than one defendant is named in the complaint, attach an additional page providing the same information for each additional defendant.)

3. The Amount in Controversy

The amount in controversy—the amount the plaintiff claims the defendant owes or the amount at stake—is more than \$75,000, not counting interest and costs of court, because *(explain)*:

III. Statement of Claim

Write a short and plain statement of the claim. Do not make legal arguments. State as briefly as possible the facts showing that each plaintiff is entitled to the damages or other relief sought. State how each defendant was involved and what each defendant did that caused the plaintiff harm or violated the plaintiff's rights, including the dates and places of that involvement or conduct. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

Defendant's products caused an electrical fire that required repair and replacement of equipment.

Defendant employed deceptive trade practices, by advertising the products had electronic protections
 Defendant employed deceptive trade practices, by advertising a continuous power rating, that it does not deliver.
 Defendant claims that uninterrupted use voids the warranty, but does not list the applicable duty cycle.
 Defendant advertises to the public the uninterrupted use of their products, and renumerates users for that use, but also disclaims warranties based on the very same uninterrupted uses that they advertise to the public.

IV. Relief

State briefly and precisely what damages or other relief the plaintiff asks the court to order. Do not make legal arguments. Include any basis for claiming that the wrongs alleged are continuing at the present time. Include the amounts of any actual damages claimed for the acts alleged and the basis for these amounts. Include any punitive or exemplary damages claimed, the amounts, and the reasons you claim you are entitled to actual or punitive money damages.

Actual damages in equipment damage and opportunity costs \$1113

Punitive damages for wasting my time in research / litigation \$500

Any other relief for the public that the court deems just, for deceiving and defrauding the public.

V. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 01/24/2022

Signature of Plaintiff



Printed Name of Plaintiff

Benjamin Jay Barber

B. For Attorneys

Date of signing:

Signature of Attorney



Printed Name of Attorney



Bar Number



Name of Law Firm



Street Address



State and Zip Code



Telephone Number



E-mail Address

